

Advisory Opinion

IECDB AO 2005-16

September 29, 2005

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on information disclosed on executive branch lobbyist and executive branch client reports. The Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

The Board first notes that this opinion is limited solely to the reports filed for the executive branch and does not address reports filed with the General Assembly. Persons desiring information on what lobbying activities are to be reported to the legislative branch should contact the Senate and House Ethics Committees.

The issue has been raised concerning the information to be disclosed on executive branch lobbyist reports and executive branch lobbyist client reports. Specifically, should the information disclosed on these reports also cover activities before the legislative branch of Iowa state government?

The Board's rules on lobbying in 351—Chapter 8 expressly require that information relating to lobbying activities before the executive branch of state government is to be disclosed on the lobbying forms filed with the Board. In addition, the Board posts these reports on its Web site and calculates the total amounts reported for purposes of documenting historical trends related to executive branch lobbying. Finally, accurate public disclosure requires that executive branch activities be reported separate and apart from legislative branch activities.¹

However, we understand that it is difficult to fully and accurately track expenses associated with lobbying the different branches of government. The Board does not want lobbyists to maintain time sheets or maintain elaborate internal records. We also understand that under the current lobbying reporting system there will be discrepancies in what each lobbyist and client discloses.

In order to resolve these conflicting issues and to help ensure compliance with the applicable laws and rules, the Board offers the following guidelines for executive branch lobbyists and clients to use in filing executive branch reports with the Board:

1. Executive branch lobbyists and clients should strive to disclose on executive branch reports information related solely to executive branch lobbying. Simply disclosing the same information as disclosed on legislative branch reports or noting that the amounts on the executive branch reports are “inclusive” is not sufficient.²
2. Executive branch lobbyists and clients should devise an internal system to track and disclose executive branch lobbying activities. For example, executive branch lobbyists and clients should designate a reasonable percentage of expenses, budget, or time spent on executive branch lobbying activities and then report accordingly.

In closing, the Board again wants to note that it is not requiring executive branch lobbyists and clients to maintain hourly time sheets or other specific documentation. Rather, that a reasonable and simple reporting methodology be used when disclosing executive branch lobbying activities in order to ensure compliance with the laws and to provide the public more accurate disclosure.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ To simply report the same numbers to both branches of government is over-disclosure that makes it appear as if more money is being spent on lobbying activities than what is really being conducted.

² In this context “inclusive” means that the information covers all lobbying activities and not just those activities involving the executive branch of government.